

Mail Stop Interference
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Paper 1
Filed: 19 August 2010

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

**SHLOMO BEN-HAIM, NISSIM DARVISH,
YUVAL MIKA and MAIER FENSTER**
Junior Party
(Patent 6,233,484),

v.

MORTON M. MOWER
Senior Party
(Application 10/053,750).

Patent Interference No. 105,765 (SCM)
(Technology Center 3700)

DECLARATION – Bd.R. 203(b)¹

- 1 **Part A. Declaration of interference**
- 2 An interference is declared (35 U.S.C. § 135(a)) between the above-
- 3 identified parties. Details of the application(s), patent (if any), reissue

¹ “Bd.R. x” may be used as shorthand for “37 C.F.R. § 41.x”. 69 Fed. Reg. 49960, 49961 (12 Aug. 2004).

1 application (if any), count(s) and claims designated as corresponding or as not
2 corresponding to the count(s) appear in Parts E and F of this DECLARATION.

3 **Part B. Judge managing the interference**

4 Administrative Patent Judge Sally C. Medley has been designated to
5 manage the interference. Bd.R. 104(a).

6 **Part C. Standing order**

7 A Trial Section STANDING ORDER [SO] (Paper 2) accompanies this
8 DECLARATION. The STANDING ORDER applies to this interference.

9 **Part D. Initial conference call**

10 A telephone conference call to discuss the interference is set for **1:30 p.m.**
11 **on 12 Oct. 2010** (the Board will initiate the call).

12 No later than **four business days** prior to the conference call, each party
13 shall file and serve (SO ¶¶ 10.1 & 105) a list of the motions (Bd.R. 120;
14 Bd.R. 204; SO ¶¶ 104.2.1, 120 & 204) the party intends to file.

15 A sample schedule for taking action during the motion phase appears as
16 Form 2 in the STANDING ORDER. Counsel are encouraged to discuss the
17 schedule prior to the conference call and to agree on dates for taking action. A
18 typical motion period lasts approximately eight (8) months. Counsel should be
19 prepared to justify any request for a shorter or longer period.

Part E. Identification and order of the parties

Junior Party

Named Inventors: SHLOMO BEN-HAIM, Haifa, Israel
NISSIM DARVISH, Haifa, Israel
YUVAL MIKA, Haifa, Israel
MAIER FENSTER, Petach Tikva, Israel

Involved Patent: Patent 6,233,484, issued 15 May 2001, based on Application 09/254,994, filed 12 March 1999

**Title: APPARATUS AND METHOD FOR
CONTROLLING THE CONTRACTILITY
OF MUSCLES**

Assignee: MEDINVEST CAPITAL S.A.R.L.

Senior Party

Named Inventors: MORTON M. MOWER, Baltimore, MD

Involved Application: Application 10/053,750, filed 21 Jan. 2002

Title: AUGMENTATION OF ELECTRICAL CONDUCTION AND CONTRACTILITY BY BIPHASIC CARDIAC PACING ADMINISTERED VIA THE CARDIAC BLOOD POOL

Assignee: MR3 MEDICAL, LLC

The senior party is assigned exhibit numbers 1001-1999. The junior party is assigned exhibit numbers 2001-2999. Bd.R. 154(c)(1); SO ¶ 154.2.1. The senior party is responsible for initiating settlement discussions. SO ¶ 126.1.

Part F. Count and claims of the parties

Count 1

Claim 8 of Ben-Haim's Patent 6,233,484

The claims of the parties are:

Ben-Haim: 1-52

Mower: 12-14, 18-20, 22, 58-66

The claims of the parties which correspond to Count 1 are:

Ben-Haim: 1, 2, 4-13, 15-30, 32-38, 40-44, 46-50, 52

Mower: 12-14, 18-20, 22

The claims of the parties which do not correspond to Count 1 are:

Ben-Haim: 3, 14, 31, 39, 45, 51

Mower: 58-66

The parties are accorded the following benefit for Count 1:

Ben-Haim: PCT/IL97/00231,
filed 09 July 1997, now WO98/10828,
published 19 March 1998

Provisional App. 60/026,392, filed 16 Sep. 1996

Mower: App. 09/690,947, filed 18 Oct. 2000, now Patent 6,341,235, issued 22 Jan. 2002

App. 09/008,636, filed 16 Jan. 1998, now Patent 6,136,019, issued 24 Oct. 2000

App. 08/699,552, filed 19 Aug. 1996, now
Patent 5,871,506, issued 16 Feb. 1999

1 **Part G. Heading to be used on papers**

2 The following heading must be used on all papers filed in this
3 interference, see SO ¶ 106.1.1:

4 UNITED STATES PATENT AND TRADEMARK OFFICE

5

6 BEFORE THE BOARD OF PATENT APPEALS
7 AND INTERFERENCES
8

9 SHLOMO BEN-HAIM, NISSIM DARVISH,
10 YUVAL MIKA and MAIER FENSTER
11 Junior Party
12 (Patent 6,233,484),

13 v.

14 MORTON M. MOWER
15 Senior Party
16 (Application 10/053,750).
17

18 Patent Interference No. 105,765 (SCM)
19 (Technology Center 3700)
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1 **Part H. Order form for requesting file copies**

2 When requesting copies of files, use of SO Form 4 will greatly expedite
3 processing of the request. Please attach a copy of Parts E and F of this
4 DECLARATION with a hand-drawn circle around the patents and applications
5 for which a copy of a file wrapper is requested.

6 /Sally C. Medley/
7 Administrative Patent Judge

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15 Enc:

16 Copy of STANDING ORDER

17 Copy of Patent 6,233,484

18 Copy of claims of Application 10/053,750

19 Copy of Patent 6,341,235

20 Copy of Patent 6,136,019

21 Copy of Patent 5,871,506

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